

FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554
July 18, 2003

In Reply Refer To:
1800B3-GDG

Four Corners Broadcasting L.L.C.
Attn: Ward Holmes, Regional Manager
P.O. Drawer P
Durango, CO 81302

In re: NEW, Delores, CO
Facility ID No. 88574
File No. BPH-19970925MT
(Construction Permit)

File No. BMPH-20030616AFZ
(Application to Modify Construction
Permit)

Dear Permittee:

This letter concerns the uncontested June 24, 2003, request filed on behalf of Four Corners Broadcasting L.L.C. ("Four Corners") for waiver of the Commission's construction period rule, 47 C.F.R. § 73.3598, to give it an additional 45 to 60 days to complete construction. For the reasons detailed below, we waive the rule on our own motion and dismiss Four Corners' request as moot.

Background. The staff granted the initial permit to construct a new commercial FM station to serve Delores, Colorado on July 25, 2000. The permit requires that Four Corners complete construction and file a covering broadcast license application no later than July 25, 2003.

On June 16, 2003, Four Corners filed an application (File No. BMPH-20030616AFZ) to relocate its permitted tower site following difficulties obtaining access to the site, which could be reached only via an adjacent private parcel whose landowner placed restrictions on access. The staff has completed its technical review of this proposal but is prevented from completing its legal review by events associated with the Commission's recent adoption of revised broadcast multiple ownership rules.¹ Applicants are precluded from filing amendments to demonstrate compliance with the revised rules until the Commission announces in the *Federal Register* U.S. Office of Management and Budget ("OMB") approval of the information collection requirements

¹See *Report and Order in MB Docket No. 02-277 and MM Docket Nos. 01-235, 01-317, and 00-244*, __ FCC Rcd ____, FCC 03-127 (released July 2, 2003).

associated with such amendments.² Our information collection requirements will not be approved by OMB until sometime after Four Corners' currently-specified construction deadline of July 25, 2003. As a result, because Four Corners is seeking to build a new station, rather than to modify a licensed facility, expiration of this permit would result in loss of all ability to complete this project. Four Corners has purchased all equipment and states that it can construct quickly once it obtains FCC approval.

While these unique circumstances do not satisfy the strict tolling requirements of 47 C.F.R. § 73.3598(b), it is well established that the Commission can waive any of its rules upon a finding of good cause consistent with the public interest.³ The Commission recognizes that such a waiver may be appropriate in "rare and exceptional circumstances."⁴ We find that the inability to complete processing of Four Corners' timely filed modification application prior to the permit's expiration date presents such circumstances. We will therefore extend the permit's expiration date, providing Four Corners the opportunity to file an amendment to address the multiple ownership issue once such an amendment is permitted, as described above.⁵

Accordingly, on our own motion, Section 73.3598 of the Commission's Rules, 47 C.F.R. § 73.3598 IS WAIVED and Four Corners' permit IS MODIFIED to specify an expiration date thirty days from the date notice is published in the *Federal Register* that OMB has approved the information collection requirements for multiple ownership amendments. Given this action, Four Corners' request for waiver of 47 C.F.R. § 73.3598 IS DISMISSED AS MOOT.

Sincerely,

Peter H. Doyle
Chief, Audio Division
Media Bureau

²See Public Notice ("Media Bureau Announces Processing Guidelines for Broadcast Station Applications"), DA-03-1877 (June 2, 2003).

³*WAIT Radio v. FCC*, 418 F.2d 1153 (D.C. Cir. 1969), cert. denied 409 U.S. 10276 (1972).

⁴*Biennial Regulatory Review – Streamlining of Mass Media Applications, Rules, and Processes*, 13 FCC Rcd 23056 (1998), recons. granted in part and denied in part, 14 FCC Rcd 17525, 17541 (1999).

⁵Grant of the modification will not, pursuant to 47 C.F.R. § 73.3598(a), extend the permit's revised expiration date.